

**REMARKS**

Claims 1, 3-9, and 11-12 are currently pending in this application, while claims 13-27 have been previously withdrawn from consideration. Claims 2, 10 and 28 have been canceled without prejudice to or disclaimer of the subject matter of those claims.

Claims 9, and 11-12 stand rejected under 35 U.S.C. 102(e) as allegedly being anticipated by U.S. Patent No. 5,554,114 to Wallace et al. Claim 9 stands rejected under 35 U.S.C. 102(b) as allegedly being anticipated by U.S. Patent No. 5,163,431 to Griep. Claims 9-10 and 28 stand rejected under 35 U.S.C. 102(b) as allegedly being anticipated by U.S. Patent No. 5,425,723 to Wang. Claims 9-10 and 12 stand rejected under 35 U.S.C. 102(b) as allegedly being anticipated by U.S. Patent No. 5,681,274 to Perkins et al. or U.S. Patent No. 5,322,521 to Wilk or U.S. Patent No. 5,176,664 to Weisman. Claims 9-10 and 12 stand rejected under 35 U.S.C. 102(e) as allegedly being anticipated by U.S. Patent No. 6,780,175 to Sachdeva et al..

Claims 1 and 3-8 are allowed.

**35 U.S.C. 102**

The undersigned submits that none of the references cited against claim 9 disclose or suggest a three layer catheter let alone a three layer catheter where each of the layers has a different hardness as recited in claim 9. The Office action cites to Wallace et al. as disclosing this claim language. However, the catheter in figures 2 and 3 of Wallace has two layers at best, the sheath (14 and 26) and the coiled wire 20. The third component visible in these figures, number 30 (which is identified as the third layer by the office action) is not part of the catheter. It is, instead, a guide wire running through the catheter. Thus, the catheters in figures 2 and 3 each lack three layers. Moreover, even if the guide wire 30 was a layer, there is no reason to believe that its hardness would be different than the hardness of the wire 20.

For at least this reason claim 9 and its dependents claims are each patentable over Wallace.


**CONCLUSION**

At least based upon the above discussion, the undersigned submits that each of the pending claims is patentable over the cited references. Reconsideration is, consequently, requested.

Should the Examiner have any questions regarding this case, the undersigned may be reached at (202) 220-4311.

Respectfully submitted,

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